

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1583 OF 2021

1. Pradyumna s/o. Anil Bazaz,
Age: 39 years, Occup.: Business,
R/o.; Kanchanwadi, Nath Valley Road,
Aurangabad, District Aurangabad
 2. Rohit s/o. Rajeshwar Satelkar,
Age: 32 years, Occup.: Business,
R/o.: Golwadi, Tal. Aurangabad,
District Aurangabad.
 3. Jayesh s/o. Jagdish Yedlawar,
Age: 26 years, Occup.: Agri and Business,
R/o.: "Disha Sanskruti", Itkheda,
Tal. Aurangabad District Aurangabad
 4. Mrs. Pusha w/o. Jagdish Yadlawar,
Age: 49 years, Occup.: Agri and Business,
R/o.: "Disha Sanskruti", Itkheda,
Tal. Aurangabad
District Aurangabad
- ... **PETITIONERS**

VERSUS

1. The State of Maharashtra,
Through Department of Urban Development,
Mantralaya, Mumbai -32
2. Principal Secretary,
Department of Urban Development,
Mantralaya, Mumbai -32
3. The Collector, Aurangabad
4. Special Land Acquisition Officer
(Special Unit), Aurangabad
5. City and Industrial and Development
Corporation Ltd., through its
Managing Director, Mumbai
6. City Industrial and Development
Corporation Ltd., through its
Chief Administrator, Udyog Bhavan,
Town Centre, New Aurangabad - 431003

7. Administrator, New Towns,
City Industrial and Development
Corporation Ltd., Waluj Mahanagar,
Aurangabad
8. The Additional Town Planning Officer,
CIDCO, Waluj Mahanagar, Aurangabad ... **RESPONDENTS**

**WITH
WRIT PETITION NO.5249 OF 2021**

1. Sau Rutuja Girish Pawar,
Age: 44 years, Occup.: Agri and Business,
R/o.: 1202, Impress Building, Kalyan,
District Thane,
2. Girish s/o. Narayan Pawar,
Age: 48 years, Occup.: Agri and Business,
R/o.: 1202, Impress Building, Kalyan,
District Thane
3. Kaustub Shekhar Latke,
Age: 42 years, Occup.: Agri and Business,
R/o.: B-403, Devi Vihar, Near Lal Chowki,
Kalyan, District Thane
4. Sau Sonali Kaustub Latke,
Age: 38 years, Occup.: Agri and Business,
R/o.: B-403, Devi Vihar, Near Lal Chowki,
Kalyan, District Thane
5. Deepak Munshwarlal Sardana,
Age: 64 years, Occu: Agri and Business,
R/o. Somrest, Hiaranandani Garden,
Pawai, Mumbai ... **PETITIONERS**

VERSUS

1. The State of Maharashtra,
Through Department of Urban Development,
Mantralaya, Mumbai -32
2. Principal Secretary,
Department of Urban Development,
Mantralaya, Mumbai -32

3. The Collector, Aurangabad
4. Special Land Acquisition Officer
(Special Unit), Aurangabad
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Corporation Ltd., through its
Managing Director, Mumbai
6. City Industrial and Development
Corporation Ltd., through its
Chief Administrator, Udyog Bhavan,
Town Centre, New Aurangabad - 431003
7. Administrator, New Towns,
City Industrial and Development
Corporation Ltd., Waluj Mahanagar,
Aurangabad
8. The Additional Town Planning Officer,
CIDCO, Waluj Mahanagar,
Aurangabad

... **RESPONDENTS**

...

Advocate for Petitioners : Mr. D.P. Palodkar
AGP for respondents - State : Mr. S.G. Salgare
Advocate for respondent Nos.5 and 8 : Mr. S.S. Deshmukh

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**CORAM : MANGESH S. PATIL AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 08.02.2023

ORDER :

These are the petitions under Article 226 of the Constitution of India, whereby, the petitioners are seeking a similar relief regarding dereservation of their respective properties reserved by the respondents CIDCO in a development plan of Waluj notified area sanctioned by the State Government under Section 31 of the Maharashtra Regional and Town Planning Act, 1966 (herein after the MRTTP Act) which came into effect on 14.08.2001.

2. We have heard the learned advocates of both the sides and perused the affidavit-in-reply filed by the respondent CIDCO.

3. Irrespective of the *bona fide* intention of the respondent CIDCO in exercising the right of eminent domain and the intention to acquire the petitioners' properties for the avowed object, admittedly, pursuant to the reservation placed on the petitioners' properties, no steps as contemplated by law and interpreted in the matter of **Girnar Traders Vs. State of Maharashtra; 2007 (7) SCC 555** have been taken. Nothing short of publication of a notification under Section 126 read with the relevant provision of the Land Acquisition law, would constitute a step in the direction of the acquisition which admittedly has not happened in either of these cases.

4. So far as the timeline to be followed in seeking relief under Section 127 of the MRTP Act is concerned, no dispute has been raised by the respondent CIDCO in its affidavit-in-reply. The notices under Section 127 were issued after 10 years of coming into force of the development plan (26.06.2018 in WP No.1583/2021 and 05.02.2009 in WP No.5249/2021). Similarly there is no dispute about the fact that the petitions have been filed after 24 months of service of the notices under Section 127. The consequences would be inevitable.

5. The CIDCO in its affidavit-in-reply is coming with a stand that in view of the financial implications resulting from undertaking the acquisition proceeding, the intended public purpose would not be financially

viable and a proposal is put up with the Government seeking approval for a revision under Section 37 of the MRTP Act. We are afraid, no such stand is relevant while considering the request of the petitioners regarding dereservation by resorting to Section 127 of the MRTP Act.

6. The writ petitions are allowed. It is declared that the reservations placed on the petitioners' properties viz 26.06.2018 in WP No.1583/2021 and 05.02.2009 in WP No.5249/2021 in a development plan of the respondent CIDCO which has come into effect on 14.08.2001 stand lapsed. The respondents shall take immediate steps for issuance of notification under Sub-Section 2 of Section 127 of the MRTP Act immediately.

(S.G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)